

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MAXIMUS PROPERTIES, L.L.C.

AI # 43210 & 43212

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-WE-06-0003
*
* Enforcement Tracking Nos.
* WE-CN-05-0223
* WE-PP-05-0222
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SETTLEMENT

The following Settlement is hereby agreed to between Maximus Properties, L.L.C. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I.

Respondent is a corporation operating two sewerage treatment plants, one serving Shady Oaks Mobile Home Park located at 1100 Rapatel Street in Mandeville, St. Tammany Parish, Louisiana; the other serving Shady Pines Mobile Home Park located at 59275 Shady Pines Lane in Slidell, St. Tammany Parish, Louisiana.

II.

On June 3, 2005, the Department issued to Respondent, for the Shady Oaks facility, a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-05-0223, which was based upon the following findings of fact:

Ila.

Correspondence received by the Department from the Respondent on or about May 10, 2002,

indicated that the Respondent was the owner of Shady Oaks Mobile Home Park as of April 18, 2002. On or about October 29, 2002, Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG570123 was transferred to the Respondent. LPDES permit LAG570123 expired on October 1, 2002, but was administratively extended until it was re-issued. The permit was re-issued to the Respondent on or about March 11, 2005, and shall expire on March 14, 2009. Under the terms and conditions of LPDES permit LAG570123, the Respondent is authorized to discharge treated sanitary wastewater to an unnamed ditch, thence to Bayou Castine, both waters of the state.

IIb.

Inspections conducted by the Department on or about August 16, 2004, August 26, 2004, and April 15, 2005, revealed that the Respondent was not properly operating and maintaining its facility. Specifically, the following deficiencies were noted during the inspections:

- A. Sludge was observed in the receiving stream;
- B. Excessive solids were observed throughout the sewage treatment plant;
- C. The aerators were inoperable;
- D. The discharge was grayish-brown, had a septic odor, and contained floating solids;
- E. Many parts of the plant require repairs such as decking around the plant, sludge return, blower motor, and chlorinator; and,
- F. Chlorine was not contained in the chlorinator for disinfection.

The Respondent's failure to properly operate and maintain its facility is in violation of LPDES permit LAG570123 (Part I, Page 4 of 13, and Part III, Sections A.2, and B.3), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E. Also, an inspection conducted on or about August 20, 2004, and a Notice of Deficient Condition issued on or about

August 23, 2004, by St. Tammany Parish Department of Environmental Services, revealed that the Respondent's STP was septic with a foul odor, had no disinfection, that the receiving stream contained solids, and that neither of the two blowers was operational.

IIC.

Inspections conducted by the Department on or about August 26, 2004, and April 19, 2005, and file reviews conducted by the Department on or about October 6, 2004, April 18, 2005, and May 16, 2005, revealed the following effluent limitations violations as reported by the Respondent on Discharge Monitoring Reports (DMRs):

Date	Parameter	Permit Limit	Reported Value
*Apr-02	TSS (Monthly Avg.)	10 mg/L	34 mg/L
	TSS (Weekly Avg.)	15 mg/L	34 mg/L
*May-2002	Fecal Coliform (Monthly avg.)	200 col./100 ml	1,840 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	1,840 col./100 ml
*Jun-2002	BOD ₅ (Monthly avg.)	10 mg/L	13 mg/L
	TSS (Monthly Avg.)	15 mg/L	16 mg/L
*Aug-2002	BOD ₅ (Monthly avg.)	10 mg/L	25 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	25 mg/L
	TSS (Monthly avg.)	15 mg/L	33 mg/L
	TSS (Weekly avg.)	23 mg/L	33 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	27,600 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	27,600 col./100 ml
*Sep-2002	Fecal Coliform (Monthly avg.)	200 col./100 ml	13,800 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	13,800 col./100 ml

Jan-2003	BOD ₅ (Monthly avg.)	10 mg/L	83 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	132 mg/L
	TSS (Monthly avg.)	15 mg/L	85 mg/L
	TSS (Weekly avg.)	23 mg/L	136 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	4,044 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	12,880 col./100 ml
Jan-2004	BOD ₅ (Monthly avg.)	10 mg/L	129 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	129 mg/L
	TSS (Monthly avg.)	15 mg/L	122 mg/L
	TSS (Weekly avg.)	23 mg/L	122 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	13,800 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	13,800 col./100 ml
Feb-2004	BOD ₅ (Monthly avg.)	10 mg/L	158 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	158 mg/L
	TSS (Monthly avg.)	15 mg/L	55 mg/L
	TSS (Weekly avg.)	23 mg/L	55 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	3,680 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	3,680 col./100 ml
Mar-2004	BOD ₅ (Monthly avg.)	10 mg/L	96 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	96 mg/L
	TSS (Monthly avg.)	15 mg/L	69 mg/L
	TSS (Weekly avg.)	23 mg/L	69 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	13,800 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	13,800 col./100 ml

Apr-2004	BOD ₅ (Monthly avg.)	10 mg/L	95 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	95 mg/L
	TSS (Monthly avg.)	15 mg/L	300 mg/L
	TSS (Weekly avg.)	23 mg/L	300 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	3,680 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	3,680 col./100 ml
May-2004	BOD ₅ (Monthly avg.)	10 mg/L	33 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	33 mg/L
	TSS (Monthly avg.)	15 mg/L	58 mg/L
	TSS (Weekly avg.)	23 mg/L	58 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	5,520 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	5,520 col./100 ml
Jun-2004	BOD ₅ (Monthly avg.)	10 mg/L	23 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	23 mg/L
	TSS (Monthly avg.)	15 mg/L	18 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	4,600 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	4,600 col./100 ml
Jul-2004	BOD ₅ (Monthly avg.)	10 mg/L	136 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	136 mg/L
	TSS (Monthly avg.)	15 mg/L	48 mg/L
	TSS (Weekly avg.)	23 mg/L	48 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	4,600 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	4,600 col./100 ml

Aug-2004	BOD ₅ (Monthly avg.)	10 mg/L	115 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	115 mg/L
	TSS (Monthly avg.)	15 mg/L	32 mg/L
	TSS (Weekly avg.)	23 mg/L	32 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	4,600 col./100 ml
	Fecal Coliform (Weekly avg.)	400 col./100 ml	4,600 col./100 ml
Sep-2004	BOD ₅ (Monthly avg.)	10 mg/L	17 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	17 mg/L
	TSS (Monthly avg.)	15 mg/L	33 mg/L
	TSS (Weekly avg.)	23 mg/L	33 mg/L
Dec-2004	BOD ₅ (Monthly avg.)	10 mg/L	18 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	18 mg/L
	TSS (Monthly avg.)	15 mg/L	33 mg/L
	TSS (Weekly avg.)	23 mg/L	33 mg/L
Jan-2005	BOD ₅ (Monthly avg.)	10 mg/L	13 mg/L
Feb-2005	BOD ₅ (Monthly avg.)	10 mg/L	64 mg/L
	BOD ₅ (Weekly avg.)	15 mg/L	64 mg/L
	TSS (Monthly avg.)	15 mg/L	18 mg/L
	Fecal Coliform (Monthly avg.)	200 col./100 ml	254 col./100 ml

* Indicates DMR values reported for monitoring periods prior to being granted coverage under LPDES permit LAG570123. The Respondent was discharging without a permit.

Each effluent limitation exceedance from October 29, 2002, through March 10, 2005, is in violation of LPDES permit LAG570123 (Part I, Section B, Page 3, and Part III, Section A.2), La. R.S. 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. Each effluent limitation exceedance after March 11, 2005, is in violation of LPDES permit LAG570123 (Part I, Schedule A, and Part III, Section A.2), La. R.S.

30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

IId.

Samples collected during an inspection conducted by the Department on or about August 26, 2004, revealed a BOD₅ value of 67 mg/L, and a TSS value of 32 mg/L. The monthly and weekly average permit limitations for BOD₅ are 10 mg/L and 15 mg/L, respectively. The monthly and weekly average permit limitations for TSS are 15 mg/L and 23 mg/L, respectively. Furthermore, samples collected during an inspection conducted by the Department on or about August 26, 2004, revealed a Fecal Coliform value of greater than 16,000 colonies/100 ml. The monthly and weekly average permit limitations for Fecal Coliform are 200 colonies/100 ml and 400 colonies/100 ml.

Ile.

A records review conducted by the Department on or about October 6, 2004, and a subsequent file review conducted by the Department on or about May 16, 2005, revealed that the Respondent failed to submit monthly DMRs on a quarterly basis as required by LPDES permit LAG570123. Specifically, the Respondent failed to submit DMRs for the monitoring periods from October through December 2002, and April through December 2003. Each failure by the Respondent to submit DMRs is in violation of LPDES permit LAG570123 (Part I, Section C.6, and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.a.

IIIf.

A records review conducted by the Department on or about October 6, 2004, and a

subsequent file review conducted May 16, 2005, revealed that the Respondent failed to submit DMRs in a timely manner as required by LPDES permit LAG570123. Specifically, the Respondent submitted monthly DMRs for the monitoring periods of January through June 2004 on or about October 6, 2004. LPDES permit LAG570123 requires monthly DMRs to be submitted on the 28th of the month following the end of each quarter. Each failure by the Respondent to submit DMRs in a timely manner is in violation of LPDES permit LAG570123 (Part I, Section C.6, and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

IIg.

A records review conducted by the Department on or about October 6, 2004, and a subsequent file review conducted on May 16, 2005, revealed that the Respondent failed to submit properly completed DMRs as required by LPDES permit LAG570123. Specifically, the Respondent failed to have DMRs signed by the responsible person listed as signatory authority on the permit application form for the monitoring periods of February 2004, and July 2004 through March 2005. The Respondent's failure to have DMRs signed by the responsible person listed as signatory authority is in violation of LPDES permit LAG570123 (Part III, Sections A.2, and D.10), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701 and LAC 33:IX.2701.K.1.

IIh.

A records review conducted by the Department on or about October 6, 2004, and a subsequent file review conducted by the Department on or about May 16, 2005, revealed that the Respondent failed to submit noncompliance reports (NCRs) to the Department as required by LPDES permit LAG570123. Specifically, the Respondent failed to submit NCRs for effluent

violations which were reported on DMRs for the monitoring periods of January 2003 through February 2005. Each failure by the Respondent to submit a NCR as required is in violation of LPDES permit LAG570123 (Part III, Sections A.2 and D.7), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, and LAC 33:IX.2355.L.7.

Ili.

Documentation provided to the Department on or about June 5, 2003, revealed the Respondent was diluting its effluent prior to discharging. Specifically, St. Tammany Parish Department of Environmental Services (DES) submitted documentation of an inspection conducted on or about June 5, 2003, which revealed that the Respondent was diluting its effluent with fresh water. Pictures taken by the DES inspector depict a hose discharging fresh water into the final chamber of the STP. Dilution of the wastewater to achieve an effluent concentration is in violation of LPDES permit LAG570123 (Part III, Sections A.2 and A.13) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

IIf.

A file review conducted by the Department on or about May 16, 2005, revealed that the Respondent was discharging without a permit. A letter submitted to the Department on May 1, 2002, and received on May 10, 2002, indicated that the Respondent was the new owner of Shady Oaks Mobile Home Park as of April 18, 2002. A LPDES permit application was received by the Department on or about April 19, 2002, and LPDES Permit LAG570123 was transferred to the Respondent on or about October 29, 2002. The Respondent submitted a DMR for the monitoring periods of April through September 2002, prior to being granted coverage under LPDES permit on or about October 29, 2002. Discharges prior to October 29, 2002, are unauthorized discharges

in violation of La. R.S. 30:2075, La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2311.A.1.

III.

On June 3, 2005, the Department issued to Respondent, for violations at the Shady Pines facility, a Notice of Potential Penalty, Enforcement No. WE-PP-05-0222, which was based upon the following findings of fact:

On or about September 1, 2004, an inspection of Shady Pines Mobile Home Park, owned and/or operated by Maximus Properties, L.L.C. (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Water Quality Regulations.

Correspondence received by the Department on or about June 17, 2002, indicated that the Respondent was the owner of Shady Pines Mobile Home Park as of April 18, 2002. On or about July 15, 2002, Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG540642 was transferred to the Respondent. LPDES permit LAG540642 expired on August 27, 2002, and was administratively extended. The permit was re-issued to the Respondent on or about December 20, 2004, and shall expire on or about February 28, 2008. Additional correspondence submitted to the Department indicates that Coastal Property Holdings, L.L.C. purchased Shady Pines Mobile Home Park on or about October 1, 2004, and is the new owner and/or operator of the facility. This document also requests LPDES permit LAG540642 be transferred to the new owner.

While the investigation of the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the

inspection and subsequent file review conducted by the Department on or about May 12, 2005:

- A. An inspection conducted by the Department on or about September 1, 2004, and a subsequent file review conducted by the Department on or about May 12, 2005, revealed that the Respondent failed to submit quarterly discharge monitoring reports (DMRs) as required by LPDES permit LAG540642. Specifically, the Respondent failed to submit DMRs for the monitoring periods of October through December 2002, April through June 2003, July through September 2003, October through December 2003, January through March 2004, April through June 2004, and July through September 2004. Each failure by the Respondent to submit a DMR is in violation of LPDES permit LAG540642 (Part II, Section C.6, and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.a.
- B. An inspection conducted by the Department on or about September 1, 2004, and subsequent file review conducted by the Department on or about May 12, 2005, revealed the following permit excursions, as reported by the Respondent on Discharge Monitoring Reports (DMRs):

Date	Parameter	Permit Limit	Reported Value
July – Sept. 2002	TSS (Monthly Avg.)	30 mg/L	284 mg/L
	TSS (Weekly Avg.)	45 mg/L	284 mg/L
Jan. – March 2003	BOD ₅ (Monthly Avg.)	30 mg/L	50 mg/L
	BOD ₅ (Weekly Avg.)	45 mg/L	50 mg/L
	Fecal Coliform (Monthly Avg.)	200 colonies/100 ml	16,560 colonies/100 ml
	Fecal Coliform (Monthly Avg.)	400 colonies/100 ml	16,560 colonies/100 ml

Each excursion of the effluent limitations constitutes a violation of LPDES permit LAG540642 (Part I, Page 3 of 5, and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A. Also, samples collected during an inspection conducted by the Department on or about September 1, 2004, revealed a BOD₅ value of 38 mg/L. The permit limit for BOD₅ is 30 mg/L for the Monthly Average.

- C. An inspection conducted by the Department on or about September 1, 2004, revealed that the Respondent was not properly operating and maintaining its sewage treatment plant (STP). Specifically, effluent from the Respondent's STP contained visible foam. The Respondent's failure to properly operate and maintain its STP is in violation of LPDES permit LAG540642 (Part I, Page 3 of 5, and Part III, Sections A.2, and B.3), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.E.
- D. A file review conducted by the Department on or about May 12, 2005, revealed

that the Respondent discharged without a permit. Documentation submitted to the Department indicates that Shady Pines Mobile Home Park was sold to Maximus Properties, L.L.C. effective Thursday, April 18, 2002. Furthermore, the Respondent submitted a DMR for the monitoring period of April through June 2002, which contained results of effluent analysis. Each discharge prior to July 15, 2002, is an unauthorized discharge in violation of La. R.S. 30:2075, La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2311.A.1.

IV.

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-05-0223 and the Notice of Potential Penalty, Enforcement No. WE-PP-05-0222, Respondent made timely requests for hearings in both matters.

V.

Both hearing requests were denied. Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-04-0223 was denied because the request did not state any dispute with the provisions of the order. Notice of Potential Penalty, Enforcement No. WE-PP-04-0222 was denied because no hearing is allowed for a Notice of Potential Penalty.

VI.

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

VII.

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWENTY EIGHT THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$28,200.00), of which ONE THOUSAND THREE HUNDRED FORTY ONE AND 40/100 DOLLARS (\$1,341.40) represents DEQ's enforcement costs, in settlement of the claims set forth in this

agreement.

VIII.

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & Notice of Potential Penalty, the Notice of Potential Penalty, and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

IX.

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

X.

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

XI.

The Respondent has caused a public notice advertisement to be placed in the official

journal of the parish governing authority in St. Tammany Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XII.

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XIII.

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XIV.

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

MAXIMUS PROPERTIES, L.L. C.

BY:

(Signature)

(Printed or Typed)

TITLE:

THUS DONE AND SIGNED in duplicate original before me this 15th day of March, 2005, at Covington LA.

NOTARY PUBLIC (ID # LSBA) #20977

(Printed or Typed)

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

Mike D. McDaniel, Ph.D., Secretary

BY:

Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 18th day of April, 2006, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # 24983)

(Printed or Typed)

Approved:

Harold Leggett, Ph.D., Assistant Secretary